

In the Drawings:

FIG. 1**b** has been amended to add references 118' and 118'', FIG. 5**b** has been amended to add references and 218', and 218'', FIG. 6 has been amended to add reference 40. Marked up drawing sheets are attached.

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**REMARKS**

In order to promote administrative efficiency and better communication, the Examiner is invited to make suggestions at any time during the proceedings, via phone, fax or e-mail, whenever such suggestions are within the Examiner's discretion as an aid to placing the claims in order for allowance in a timely manner.

Support for Amendments:

Applicant has amended the claims to clarify the distinctions with the prior art cited by the Examiner. Each complex aperture is made up of at least one set of two overlapping holes having an offset of a given distance *between centers*. In order that the holes be capable of receiving and holding a bone screw, a *necked down* portion must exist between overlapping holes. All the figures in the instant application show overlapping holes with a necked down portion therebetween, such feature existing primarily for the purpose of allowing a bone screw to be independently secured to one or the other of these holes. For example, on page 8, first full paragraph, the application states the following:

Page 8, lines 5-7:

...the form 104 of the chamfer does not allow for the placement of the screw 24 at any position along the length of the aperture (rather, there are only two possible positions; coaxial with the holes 100).

Page 8, line 23-Page 9, line 5.

Note that the threaded apertures 100 used in the invention provide hole centers located at specific locations (as opposed to apertures that are formed as a slot). Use of threads centered at a specific point allows the bone screw to be fixed at a specific location at which the surgeon may judge the bone structure to be best suited to support such a bone screw. Unlike designs using a slot, the apertures 100 of the invention eliminate wander of the screw in the aperture. This further permits placement at specific locations for buttressing

and/or secure fixing in neutral screw loading areas.

Page 10, second full paragraph:

In another feature, locking bone pegs (not shown) interface with the threaded apertures. The threads cut in the head of these pegs are designed so as to lock with the threaded apertures in order to better ensure rigid fixing of a fracture when using pegs having a body without threads. The locking feature used can be any of the known methods of locking threads by mechanical means,

From the above and throughout the application as filed, it is clear that each hole is adapted to receive a locking bone screw which securely fixes thereto. To be able to securely place bone screws in either hole, the offset must be sufficient enough to define a necked-down portion between offset overlapping holes. A mere slot is not enough to retain the bone screw in a fixed position. It is believed that the amendments made herein more clearly define what is a "necked down portion" so as to exclude an interpretation in which it could be read as meaning a countersunk hole, i.e., a countersink on a coaxial hole. Further, the specification has been amended to make more clear that by overlapping, it is meant that the holes overlap adjacently and not coaxially.

Notwithstanding the amendments made, Applicant believes that the language previously submitted is a permissible abstraction of the invention, fully supported and enabled in the application as filed. In order that the holes overlap, it is necessary that this offset be less than the sum of the radii of each such adjacent overlapping holes. The Examiner will certainly agree that a radius is characteristic of a circle and the use of the "radius" definition, therefore, is acceptable in the context of Applicant's amendments. However, Applicant believes that the proposed amendments herein adequately and clearly distinguish the invention over the prior art in a manner more likely to satisfy the Examiner to expedite allowance of this case. Consequently, Applicant believes the enablement issue is made moot by the instant amendments.

Claim Rejections:

35 U.S.C. § 112:

The Examiner rejected claims 1-3, 5-9, 11-13, and 17 under 35 U.S.C. §112, first paragraph, for failing to comply with the enablement requirement. Although Applicant traverses the Examiner's rejection (in that, for example, Applicant may disagree with the Examiner's apparent definition of the terms), for clarity's sake and to move the application to allowance, Applicant has amended the claims such that the Examiner is not likely to have any further objections thereto. In particular, the language "the offset equal to less than the sum of the radii of each such adjacent overlapping holes yet more than a radius of a larger such overlapping holes" has been deleted. It is believed therefore that the Examiner should be satisfied such that he will remove the pending §112 rejections.

Specification and Drawings:

It is believed that the amendments to the claims and the specification, together with the Applicant's bringing Figures 1b and 5b to the Examiner's attention once again, make clear that the amendments are enabled by the description as filed. Clearly, Figures 1b and 5b show a "long portion", a "joint portion", and an "osteotomically separated" bone. Further, marked up changes to the drawing sheets 2 & 6 are attached, which make clear what is meant by "long portion", "joint portion" and "osteotomically separated".

Claim rejections §102:

Applicant thanks the Examiner for withdrawing his previous §102 novelty rejections.

Claim rejections §103(a)

The Examiner now rejects claims 1-3, 5-9, 11-14, 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Weaver et al (US Patent No. 6,623,486) in view of Steffee.

The Examiner states that Weaver *et al* fails to disclose threaded overlapping holes having an offset of a given distance with a necked down portion therebetween. Applicant agrees and wishes to emphasize that this is the essence of the invention as claimed. Although Steffee shows overlapping countersinks, Steffee adds nothing at all to Weaver because Steffee shows only *slots*. Slots alone are not at all capable of retaining a bone screw having threads, because they are not capable of being threaded so as to retain a bone screw in a fixed position. *Therefore, it is not surprising that Steffee completely lacks the critical element of applicant's invention, namely, threaded holes.* Again, Applicant's invention shows discrete overlapping *threaded* holes. There is nothing characteristic of a slot in Applicant's overlapping holes. Further, Steffee is NOT a bone plate which repairs fractures or separated bones. Rather, Steffee is an "apparatus for straightening spinal columns" and so lacks a nexus with bone plates for repairing fractures or for reconnecting osteotomically separated bone.

It is believed therefore that the combination suggested by the Examiner is improper and cannot support a claim of obviousness. Consequently, claims 1-3, 5-9, 11-14, 16 and 17 are believed to be in condition for allowance. Acknowledgement of this fact is respectfully requested.

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#### Conclusion


Applicant has made a diligent effort to advance the prosecution of this application by amending claims, and by pointing out herein with particularity how the claims now presented are patentably distinct from the prior art of record. Therefore, Applicant respectfully submits that the claims, as amended, are now in condition for allowance. No new matter has been entered by this amendment. Any limitations to the

claims are made solely for the purpose of expediting the prosecution of the application and, unless otherwise expressly stated, are not made to narrow, vis-à-vis the prior art, the scope of protection which any subsequently issuing patent might afford. Again, if the Examiner has further questions, he is invited to contact the undersigned at phone 011-4171-230-1000, fax at 011-4171-230-1001 (Switzerland is 6 hours ahead of Eastern Std Time), or e-mail at [moetteli@patentinfo.net](mailto:moetteli@patentinfo.net).

Applicant petitions the Commissioner for an extension of time of 1 month(s) and the Undersigned authorizes the Commissioner to charge any fee or credit any overpayment of any fee under 37 CFR §1.16 and §1.17 which may be required in this application to the deposit account of MOETTELI & ASSOCIES SARL, no. 50-2621.

Respectfully submitted,

Date : November 16 2007

  
/s/John Moetteli/  
John MOETTELI  
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Enclosure: Replacement drawings